

SOUTH-CENTRAL CONSOLIDATED ZONING BOARD

Johnson County Administration Building
111 South Cherry Street
Olathe, Kansas

MINUTES

Monday, July 7, 2008

6:30 P.M.

CALL TO ORDER

A regular meeting of the South-Central Consolidated Zoning Board, Johnson County, Kansas, was convened at 6:30 p.m. on Monday, July 7, 2008, and was called to order by Chairman Bill Kiesling, with the following members present and participating; to-wit:, Marvin Allen, Jr., James LasKares, Ken Sanderson and Mike Paterson. Dennis Bollin was absent. Also in attendance was Pamela Hayhow, Planner. Serving as secretary to the Board, Sherry Cross.

AGENDA ITEMS

The Chairman: We'll open up the South Central Zoning Board meeting for July 7, 2008. We have a quorum this evening.

[Roll Call]

The Chairman: Do we have any disclosure of conflicts of interest with the application as far as proximity or outside contacts?

[None]

The Chairman: Any disclosure of external contacts or discussions?

[None]

APPROVAL OF MINUTES

The Chairman: The first item on the agenda tonight -- Did everyone receive the minutes for May 5, 2008? Are there any modifications, changes or additions to the minutes of May 5, 2008?

Mr. Sanderson: The only thing I notice, Mr. Chairman, is that June 5th, the meeting would appear in the year 2008 rather than 2007. Is that correct? On page 2 of the minutes from last time? I assume I'm correct.

[*Conversation off-microphone*]

Ms. Cross: I have the minutes from May 5, 2008.

Mr. Sanderson: Right. Paul says that this will go before the Board of County Commissioners on June 5, 2007, which is an incorrect date. Looks to me like it should be June 5, 2008.

Ms. Cross: That is correct.

Mr. Sanderson: Okay. With that correction, I would move for approval of same.

The Chairman: Are there any other corrections from the board? We have a motion on the floor to approve the minutes of May 5, 2008.

Mr. Paterson: I second it.

Motion passes unanimously.

BOARD REPORTS

The Chairman: Does staff have anything from the Board of County Commissioners?

Ms. Hayhow: The last case to come before this board was on May 5th, a conditional use permit for the Andree kennel on Lone Elm Road. It was heard by the Board of County Commissioners on June 5, 2008, and was approved.

The Chairman: Thank you. Planning Commission activities – I would report that at the last Planning Commission meeting, we took a tour of the west portion of Johnson County. We basically took that tour to look at Gardner Lake because of the setback of the lots that we have been talking about. In addition, we went to the new Milldale Farm, which is a new Johnson County park. We also went along the intermodal property and got an idea of how much land that's going to occupy. Also, Bull Creek Park is directly south of the new Milldale Farm park. Do you have anything else to add, Pamela?

Ms. Hayhow: We saw the Midwest Commerce site and looked at some of the industrial areas of the New Century AirCenter. Again, it was just very informational. We experienced trains of all sizes and types that are proposed at the intermodal facility, so that was interesting. It was a very good tour.

BUSINESS BEFORE THE BOARD

A. Application No. SC-CU-2866 (SP) – Conditional Use Permit Renewal – 19671 W. 215th Street

Polsinelli Shalton Welte Suelthaus, applicant for John and Jennifer Hanser, landowners, is requesting Conditional Use Permit Renewal for an existing 195-ft. tall monopole communication tower on a 100' x 100' leased parcel located in Section 13, Township 15, Range 23, zoned RUR, Rural District.

Ms. Hayhow: I would like to enter the staff report dated June 30 into the record and give a brief summary of the application. This is a request for a renewal of a conditional use permit for an existing communication tower. The 180-foot tower and equipment are located on the north side of 215th Street, just east of Frank Street, also known as Woodland Road to the south. The original conditional use permit was approved in May 2002 for a five-year term. Access to the site – a 100 x 100 foot lease area – is from 215th Street. The base of the tower area is gravel, and it's fenced and gated. A 20-foot-wide area around the perimeter of the fence area has been planted with both evergreen and deciduous trees, as required in the original resolution. In addition, a landscaping buffer was planted along the west property line adjacent to an existing single family residence. Some of the planted trees have died or are in need of replacement; staff has recommended a stipulation to address that issue.

One of the stipulations of the original resolution stated that a fall zone easement be recorded to assure that the residential structures could not be constructed near the base of the tower. That document has been recorded, and it's included in your packet.

The tower was constructed to accommodate up to four carriers. It currently has two providers. In addition, the applicant has submitted a letter to act as demonstration of a good faith effort for co-location, to reduce the number of towers in the overall area. I've provided you a copy of that letter.

Staff has reviewed the application for conformance with the Golden Criteria and has found the use to be in compliance with these standards. The uses are considered to be compatible with the zoning and uses of the nearby properties. We've also listed seven additional criteria under "Other Considerations" and the use was found to be in keeping with the additional criteria.

Staff is recommending approval of the renewal, with the stipulations listed on page 7 and 8 of the staff report. The only changes or additional stipulations of the conditional use permit are the ten-year time period, and the landscaping stipulation under 6.d.; that the evaluation of the landscaping is to occur before consideration by the Board of County Commissioners; and installation of the additional landscaping will occur before November 1st.

This concludes staff's presentation. I'll be glad to answer any questions. Korb Maxwell with Polsinelli is here in the audience, as well as John Hanser. They can answer any other questions you might have.

The Chairman: Does the board have any questions of staff?

Mr. Sanderson: If it's a five-year permit and this was granted – I think I kind of remember this. Why wouldn't we have heard this in 2007 if it was granted in May of

2002? I'm trying to add it up, and I can't come to a resolution as to why we're hearing this in July 2008.

Ms. Hayhow: That's a good question. The conditional use permit has expired; the applicant was sent notice, and it's just taken a while to get on the agenda.

Mr. Sanderson: Does the County track these conditional use permits?

Ms. Cross: For a while we had a code enforcement officer whose job it was to track these. We haven't had one for several months. So, it would be my guess that it got dropped.

[Inaudible, background noise]

Mr. Sanderson: It just seems ironic to me. We probably should have been looking at this a year ago, so something must be falling through the cracks. That's all.

The Chairman: Any other board members have questions of staff? Not hearing any, is the applicant here?

Korb Maxwell, Polsinelli Law Firm, 6201 College Boulevard, Overland Park, appeared before the zoning board and made the following comments:

Mr. Maxwell: I'm appearing today on behalf of AT&T Mobility, formerly Cingular Wireless. We are here in front of the board today, and we agree with the staff's recommendations and the recommendations that have been laid out in the stipulations 1 through 6. We are asking for a ten-year renewal of the conditional use permit. We are in agreement with all the landscaping stipulations. With that, I'd be happy to answer any questions the board may have about the site, the tower or AT&T Mobility.

The Chairman: Does the board have any questions of the applicant? Not hearing any, we will move along. I have one question of staff. Have we had any problems with this particular location throughout the special use permit?

Ms. Hayhow: We have not had any reported complaints regarding this tower. When staff did a site inspection, we noticed the landscaping, that things had died and were in need of replacement, but we have not heard from any of the surrounding property owners.

Mr. Paterson: A question for staff. Does the ten-year start from now, or does it go back to when it ran out and start then?

Ms. Hayhow: The way the stipulation is written now, it goes ten years from when the Board of County Commissioners hears the case this time. If you wish to revise that stipulation, we can certainly work with that.

The Chairman: I think that's normally the way it is done because it's not approved until it's published after the County Commissioner's approve it, and it gives the date of the starting period, I think.

Mr. Sanderson: Is ten years then within the policy guidelines for these special use permits, now, currently?

Ms. Hayhow: Typically, the conditional use permit is approved for a five-year term for the initial period, so the use can be reviewed for any problems, and then at renewal, if there have been no complaints or negative impacts, they are typically approved for a ten-year period.

Mr. Sanderson: And that's what's before us tonight, is the ten-year?

Ms. Hayhow: That's correct.

Mr. Sanderson: That's in concert with the applicant's request, so we're in concert for ten years then?

Ms. Hayhow: One of staff's stipulations is to start ten years commencing from the date of the –

Mr. Sanderson: Okay. I thought I heard you say five earlier. All right.

The Chairman: Okay. Does the board need any discussion? Any other questions of the applicant or staff? This is a public hearing; is there anyone else in the audience who would like to make a comment? Not hearing any, is there a motion?

Mr. Allen: I move we approve it per staff's stipulations.

Mr. Sanderson: I second it.

Motion passes unanimously.

Ms. Hayhow: This will go to the Board of County Commissioners on August 7, 2008, at 9:30 a.m., in this room.

OTHER BUSINESS

The Chairman: Pamela, I think you had a report?

Ms. Hayhow: Yes. The chairman for the Northwest Zoning Board requested information about what the City was doing with annexation. I contacted the City, and they have a lot of information on their public Web site regarding annexation. Nothing has been formally started. They have had two citizen input meetings that were held last month. Other than that, they are taking a resolution to the city council on July 15th to determine whether the

City wants to pursue annexation or not. That's basically all I know about the process. I have gone to the Web site and downloaded some information for you. It shows you the areas that they are talking about annexing, what they call donut holes. I think the City refers to them as enclave annexations. There are some Frequently Asked Questions on the back sheets. This is the information that was presented to the public at the meeting. If the City decides to go ahead with annexation, there will be a 60- to 70-day period where they'll be gathering facts and testimony from the citizens. Then there will be a public hearing. If they do decide to proceed with annexation, we'll try to get someone from the City to come talk to you.

The Chairman: Any questions on this item?

Mr. Paterson: That will affect me being on the board.

The Chairman: It affects me, too.

Mr. Paterson: That's two of us.

The Chairman: We've got two members who sounds like may be annexed.

BUSINESS FROM THE FLOOR

[None]

OLD BUSINESS

[None]

NEW BUSINESS

[None]

ADJOURNMENT

Motion by Mr. Allen, seconded by Mr. Paterson, to adjourn. Motion carries unanimously.

Thereupon, with no further business to come before the South-Central Consolidated Zoning Board, Vice Chairman Sanderson at 6:47 p.m. declared the meeting to be *Adjourned*.


Bill Kiesling, Chairman

ATTEST:

Sherry Cross
Secretary to the Board
